



REMARKS

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The allowability of claims 2, 13, 14, 16, 18 and 20 is acknowledged appreciatively. However, the rejection of the other retained claims under 35 USC 103 for obviousness from the cited Rop, et al. and Borden, et al. patents is traversed.

The Rop, et al. patent is well characterized in the Action as disclosing telescoping (slipping between) the leading edge of one flattened tube inside the trailing edge of another flattened tube. However, the applicant finds no telescoping in the Borden, et al. patent and, therefore, cannot agree that the common flattened tube disclosure of the Rop, et al. patent and claimed invention and Fig. 1 of the Borden, et al. patent showing cutting away corners of a flattened tube suggests its combination with the Rop, et al. patent for the obviousness of the claims.

The curvature-indicating shade lines at the inside top of the tubes 11, 12 in Fig. 2 of the Borden, et al. patent show that these tubes are NOT flattened when moved axially toward each other into the position shown in Fig. 3. It is thus apparent that the ends of the tubes do NOT telescope or slip one between the other as in the Rop, et al. patent and claims, but are positioned side-by-side of each other.

This is because the tubes in the Borden, et al. patent are NOT flattened when moved toward each other. Therefore, the previously claimed flattened first tube is now repeatedly described throughout claim 1 to emphasize the slipping of the end of one tube between separated lips of another, the "telescoping" of only the Rop, et al. patent and the claims. Such emphasis of an original distinction does not narrow claim 1 so as to invoke any present Festo decision.

Therefore, the Borden, et al. patent neither discloses nor suggests the claimed slipping between or telescoping of the Rop, et al. patent and claims nor the doing so with flattened tubes of the Rop, et al. patent and claims. Because it does not disclose or suggest these claimed features, the mere fact that it discloses the cut-away corners also claimed is no motivation as necessary to combine it with the Rop, et al. patent to reconstruct the claimed invention piecemeal.

It is not "features" but the subject matter of the invention "as a whole" that must be considered, 35 U.S.C. §103. That features, even distinguishing features, are "disclosed" in the prior art is alone insufficient. Connell et al. v. Sears, Roebuck & Co., 220 USPQ 193, 199 (Fed. Cir. 1883).

Concerning Borden, et al., it can be remarked that this describes a method for splicing stiff hoses such that a stable and tight splice is obtained. Both hoses have cut away ends so that these ends fit into each other and both are telescoped over a fabric-reinforced uncured sleeve, against which uncured rubber is placed to fill a gap between the hose sections etc. etc., but not over (slipped in) each other, as claimed. The sleeve is formed on a mandrel and has to be ejected by fluid pressure at the completion of the splicing operation.

Rop, et al describes the splicing of "tubular food casings". Use can be made of a "butt" method in which the ends are lying against each other and of an "insert" method in which one end is slid into the other. In both methods the ends are fixed with a special splicing tape.

In case of the present patent application only one hose is provided with cut away ends so that lips are formed which can be separated from each other so that the end of the other hose can be slid between said lips so no inside sleeve has to be present which afterwards has to be removed. The method can be easily automatized, this in contradiction with the other

known methods.

The Examiner suggests that it is obvious that the "cut away corners" of Borden, et al. might be used in case of the "insert" method of Rop, et al. to make it easier to slide the one end into the other one. It is remarked that Borden, et al. describes that both ends are provided with cut away corners. Further, it is doubtful whether this should work in view of the fact that the circular end of the inserted tube has to be completely slid into the other tube and has to engage the wall of this completely as this is shown e.g. in fig. 6 of Rop, et al. to obtain a completely tight splice.

In case of Rop, et al. it is indeed not obvious to leave a space between the longitudinal edges of the telescoped food casings. If that is done the method will not work because at these two places the splicing tape will adhere to itself and the tubular food casing will not open.

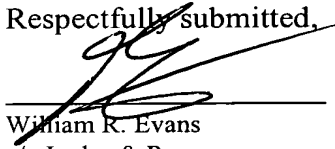
The Rop, et al. method only works when the two ends are fully engaging each other ("butt") or are slid into each other ("insert") as the casing for food has to be tight. In both cases it makes no sense to provide either both or one end with cut away corners.

Further, the cut away corners have two further functions to wit (1) removing the air which might have entered during splicing and (2) detecting the splice by means of a photo-electric cell directed on the edge of the spliced sleeve so that this particular sleeve can be automatically removed before this sleeve is brought onto the product.

In view of this it has to be remarked that the sleeve according to the present invention is used for a totally different object than the hose of Rop, et al. and Borden, et al.

Reconsideration and allowance are, therefore, requested.

Respectfully submitted,



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